

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 99-50791
Summary Calendar

U.S. COURT OF APPEALS
FILED

APR 17 2000

D.C. Docket No. EP-97-CV-502-H

CHARLES R. FULBRUGE III
CLERK

JOSE G LARA; E J LOZANO; ALFREDO JUAREZ; G TIM HERVEY; EARL
L HARBECK; VOLAR CENTER FOR INDEPENDENT LIVING; LUIS ENRIQUE
CHEW; DESERT ADAPT; MYRA MURILLO; MARGARITA
LIGHTBOURNE-HARBECK

Plaintiffs - Appellants

v.

CINEMARK USA, INC

Defendant - Appellee

Appeal from the United States District Court for the
Western District of Texas, El Paso.

Before DAVIS, EMILIO M. GARZA, and DENNIS, Circuit Judges.

J U D G M E N T

This cause came on to be heard on the record on appeal and
was taken under submission on the briefs on file.

ON CONSIDERATION WHEREOF, it is now here ordered and adjudged
by this Court that the judgment of the District Court in this cause
is affirmed.

IT IS FURTHER ORDERED that plaintiffs-appellants pay to
defendant-appellee the costs on appeal to be taxed by the Clerk
of this Court.

ISSUED AS MANDATE: MAY 09 2000

A true copy
Test

Clerk, U. S. Court of Appeals, Fifth Circuit

By

Malcolm J. Lee
Deputy

MAY 09 2000

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BY *KR*
COURT CLERK DISTRICT
EL PASO, TEXAS

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HARBECK, VOLAR CENTER FOR INDEPENDENT LIVING, LUIS ENRIQUE CHEW,
DESERT ADAPT, MYRA MURILLO, MARGARITA LIGHTBOURNE-HARBECK,

Plaintiffs-Appellants,

VERSUS

CINEMARK USA, INC.,

Defendant-Appellee.

Appeal from the United States District Court
For the Western District of Texas

Before DAVIS, EMILIO M. GARZA and DENNIS, Circuit Judges.

PER CURIAM*:

Plaintiffs appeal the district court's denial of expert witness fees pursuant to 42 U.S.C. § 12205, which permits district courts to award "a reasonable attorney's fee, including litigation expenses, and costs" to a party prevailing under the ADA. Plaintiffs premise this appeal upon the district court's August 21,

* Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

1998 Order granting summary judgment on behalf of Plaintiffs. Recently, this Court reversed that order and rendered judgment for Defendant, Cinemark, Inc. Accordingly, Plaintiffs are not a prevailing party and may not obtain fees and costs under 42 U.S.C. § 12205. The judgment of the district court is therefore affirmed.